

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

## HOUSE ENROLLED ACT No. 1358

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AN ACT to amend the Indiana Code concerning health.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 16-18-2-84, AS AMENDED BY P.L.197-2011, SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 84. "Council", ~~refers to the following:~~

(1) ~~For purposes of IC 16-21, IC 16-25, IC 16-27, IC 16-28, and IC 16-29, the health care facility advisory council.~~

(2) ~~for purposes of IC 16-46-6, refers to the interagency state council on black and minority health.~~

SECTION 2. IC 16-19-14-7, AS ADDED BY P.L.38-2010, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. This chapter expires July 1, ~~2014~~ **2017**.

SECTION 3. IC 16-19-15 IS REPEALED [EFFECTIVE JULY 1, 2014]. (Health Care Facility Advisory Council).

SECTION 4. IC 16-21-1-7, AS AMENDED BY P.L.96-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 7. (a) ~~Except as provided in subsection (b); the council shall propose and~~ The executive board may adopt rules under IC 4-22-2 necessary to protect the health, safety, rights, and welfare of patients, including the following:

(1) Rules pertaining to the operation and management of hospitals, ambulatory outpatient surgical centers, abortion clinics, and birthing centers.



(2) Rules establishing standards for equipment, facilities, and staffing required for efficient and quality care of patients.

(b) The state department may request the council to propose a new rule or an amendment to an existing rule necessary to protect the health, safety, rights, and welfare of patients. If the council does not propose a rule within ninety (90) days of the department's request, the department may propose its own rule.

(c) The state department shall consider the rules proposed by the council and may adopt, modify, remand, or reject specific rules or parts of rules proposed by the council.

SECTION 5. IC 16-21-1-10, AS AMENDED BY P.L.1-2006, SECTION 295, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 10. (a) Licensure inspections of an institution or agency shall be made regularly in accordance with rules adopted under this chapter. The state department shall make all health and sanitation inspections, including inspections in response to an alleged breach of this chapter or rules adopted under this chapter. The division of fire and building safety shall make all fire safety inspections. ~~The council may provide for other inspections necessary to implement this chapter.~~

(b) An employee of the state department who knowingly or intentionally informs an institution or agency of the exact date of an unannounced inspection shall be suspended without pay for five (5) days for a first offense and shall be dismissed for a subsequent offense.

(c) Reports of all inspections must be in writing and sent to the institution or agency.

(d) The report of an inspection and records relating to the inspection may not be released to the public until the conditions set forth in IC 16-19-3-25 are satisfied.

SECTION 6. IC 16-21-2-4 IS REPEALED [EFFECTIVE JULY 1, 2014]. ~~Sec. 4: The state department shall administer this chapter with the advice of the council.~~

SECTION 7. IC 16-25-3-2.5 IS REPEALED [EFFECTIVE JULY 1, 2014]. ~~Sec. 2.5: The state department shall administer this chapter with the advice of the health care facility advisory council established by IC 16-19-15-1.~~

SECTION 8. IC 16-27-0.5-9, AS AMENDED BY P.L.6-2012, SECTION 117, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 9. ~~(a) The state department may request the health care facility advisory council to propose a new rule or an amendment to a rule~~ **adopt rules under IC 4-22-2** necessary to protect the health, safety, rights, and welfare of the home health care



patients and hospice patients. If the council does not propose a rule within ninety (90) days after the state department's request, the state department may propose the rule:

(b) The executive board shall consider rules proposed by the council under this section. The executive board may adopt, modify, remand, or reject specific rules or parts of rules proposed by the council.

(c) To become effective, all rules proposed by the council under this chapter must be adopted by the executive board in accordance with IC 4-22-2.

SECTION 9. IC 16-28-1-7, AS AMENDED BY P.L.156-2011, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 7. The ~~council~~ **state department** shall do the following:

(1) ~~Propose the adoption of~~ **Adopt** rules by the department under IC 4-22-2 governing the following:

(A) Health and sanitation standards necessary to protect the health, safety, security, rights, and welfare of patients.

(B) Qualifications of applicants for licenses issued under this article to assure the proper care of patients.

(C) Operation, maintenance, management, equipment, and construction of facilities required to be licensed under this article if jurisdiction is not vested in any other state agency.

(D) Manner, form, and content of the license, including rules governing disclosure of ownership interests.

(E) Levels of medical staffing and medical services in cooperation with the office of Medicaid policy and planning, division of family resources, and other agencies authorized to pay for the services.

(2) Recommend to the fire prevention and building safety commission fire safety rules necessary to protect the health, safety, security, rights, and welfare of patients.

(3) Classify health facilities in health care categories.

(4) ~~Act as an advisory body for the division, commissioner, and state department.~~

SECTION 10. IC 16-28-1-9 IS REPEALED [EFFECTIVE JULY 1, 2014]. Sec. 9: The ~~council~~ may not waive a rule adopted under this chapter.

SECTION 11. IC 16-28-1-12 IS REPEALED [EFFECTIVE JULY 1, 2014]. Sec. 12: (a) The department may request the council to propose a new rule or an amendment to a rule necessary to protect the health, safety, rights, and welfare of patients. If the council does not propose a rule not more than ninety (90) days after the department's



request, the department may propose its own rule:

(b) ~~The executive board may adopt, modify, remand, or reject specific rules or parts of rules proposed by the council.~~

(c) ~~To become effective, all rules adopted under this chapter must be adopted by the executive board in accordance with IC 4-22-2. The rules adopted under this chapter are the only rules governing the licensing and operation of health facilities.~~

SECTION 12. IC 16-28-1-13, AS AMENDED BY P.L.1-2006, SECTION 299, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 13. (a) Licensure inspections of health facilities shall be made regularly in accordance with rules adopted under this chapter. The division shall make all health and sanitation inspections. The division of fire and building safety shall make all fire safety inspections. ~~The council or the director may provide for other inspections necessary to carry out this chapter.~~

(b) The exact date of an inspection of a health facility under this chapter may not be announced or communicated directly or indirectly to the owner, administrator, or an employee of the facility before the inspection. An employee of the state department who knowingly or intentionally informs a health facility of the exact date of an inspection shall be suspended without pay for five (5) days for a first offense and shall be dismissed for a subsequent offense.

(c) Reports of all inspections must be:

- (1) in writing; and
- (2) sent to the health facility.

(d) The report of an inspection and records relating to the inspection may not be released to the public until the conditions set forth in IC 16-19-3-25 are satisfied.

SECTION 13. IC 16-28-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1. (a) Hearings under this article shall be conducted in accordance with IC 4-21.5. Except for hearings held on the adoption of rules, an administrative law judge must meet the following conditions:

- (1) Be admitted to the practice of law in Indiana.
- (2) Not be ~~a member of the council~~ or an employee of the state.

(b) A health facility shall pay the costs of appointing an administrative law judge if the administrative law judge finds in favor of the state. However, if the administrative law judge finds in favor of the health facility, the state shall pay the costs of appointing the administrative law judge.

SECTION 14. IC 16-29-4-3, AS AMENDED BY P.L.6-2012, SECTION 118, IS AMENDED TO READ AS FOLLOWS



[EFFECTIVE JULY 1, 2014]: Sec. 3. ~~The health care facility advisory council may recommend;~~ Before the conversion of existing health facility beds to ICF/MR beds or the construction of a new ICF/MR facility, ~~that~~ the state department **may** issue a preliminary approval of the proposed project, but only if the ~~council~~ **state department** determines that there is an insufficient number of available beds to care for all the persons who are determined under IC 12-11-2.1 to be appropriate for placement in an ICF/MR facility.

SECTION 15. IC 16-29-4-4, AS AMENDED BY P.L.6-2012, SECTION 119, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 4. A proposed project that receives preliminary approval under this chapter may not add more beds than the number determined by the ~~health care facility advisory council~~ **state department** to be necessary to provide an available bed for each person determined under IC 12-11-2.1 to be appropriate for placement in an ICF/MR facility. Upon completion of the proposed project and compliance with the other requirements for licensure under IC 16-28, the state department shall issue a license to the facility.

SECTION 16. IC 16-36-6-7, AS ADDED BY P.L.164-2013, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 7. (a) The following individuals may complete a POST form:

- (1) A qualified person who is:
  - (A) either:
    - (i) at least eighteen (18) years of age; or
    - (ii) less than eighteen (18) years of age but authorized to consent under IC 16-36-1-3(a)(2); and
  - (B) of sound mind.
- (2) A qualified person's representative, if the qualified person:
  - (A) is less than eighteen (18) years of age and is not authorized to consent under IC 16-36-1-3(a)(2); or
  - (B) has been determined to be incapable of making decisions about the qualified person's health care by a treating physician acting in good faith and the representative has been:
    - (i) appointed by the individual under IC 16-36-1-7 to serve as the individual's health care representative;
    - (ii) authorized to act under IC 30-5-5-16 and IC 30-5-5-17 as the individual's attorney in fact with authority to consent to or refuse health care for the individual; ~~or~~
    - (iii) appointed by a court as the individual's ~~guardian~~ **health care representative** under IC 16-36-1-8; ~~or~~
    - (iv) **appointed by a court as the guardian of the person**



**with the authority to make health care decisions under IC 29-3.**

(b) In order to complete a POST form, a person described in subsection (a) and the qualified person's treating physician or the physician's designee must do the following:

- (1) Discuss the qualified person's goals and treatment options available to the qualified person based on the qualified person's health.
- (2) Complete the POST form, to the extent possible, based on the qualified person's preferences determined during the discussion in subdivision (1).

(c) When completing a POST form on behalf of a qualified person, a representative shall act:

- (1) in good faith; and
- (2) in:
  - (A) accordance with the qualified person's express or implied intentions, if known; or
  - (B) the best interest of the qualified person, if the qualified person's express or implied intentions are not known.

(d) A copy of the executed POST form shall be maintained in the qualified person's medical file.

SECTION 17. IC 16-37-2-4, AS AMENDED BY P.L.232-2013, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 4. A local health officer may accept a certificate of birth presented for filing not more than ~~four (4) years~~ **twelve (12) months** after the birth occurred if the attending physician, certified nurse midwife, certified direct entry midwife, or other person desiring to file the certificate states the reason for the delay in writing. This statement shall be made a part of the certificate of birth.

SECTION 18. IC 16-37-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 5. A certificate of birth presented for filing more than ~~four (4) years~~ **twelve (12) months** after the birth occurred is a delayed certificate of birth and the record shall be filed only with the state department.

SECTION 19. IC 16-38-4-1, AS AMENDED BY P.L.232-2013, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1. As used in this chapter, "birth problems" means one (1) or more of the following conditions:

- (1) A structural deformation.
- (2) A developmental malformation.
- (3) A genetic, inherited, or biochemical disease.
- (4) A condition of a chronic nature, including central nervous



system hemorrhage or infection of the central nervous system, that may result in a need for long term health care.

(5) An autism spectrum disorder that is recognized in ~~a child before the child becomes five (5)~~ **an individual at any years of age.**

(6) A fetal alcohol spectrum disorder that is recognized before a child becomes five (5) years of age.

(7) Any other severe disability that is:

(A) designated in a rule adopted by the state department; and

(B) recognized in a child after birth and before the child becomes three (3) years of age.

(8) Complications resulting from a home delivery. As used in this subdivision, "home" includes the delivery of a viable fetus at a home or other non-health care facility.

SECTION 20. IC 16-38-4-8, AS AMENDED BY P.L.188-2013, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 8. (a) The state department shall establish a birth problems registry for the purpose of recording all cases of birth problems that occur in Indiana residents and compiling necessary and appropriate information concerning those cases, as determined by the state department, in order to:

(1) conduct epidemiologic and environmental studies and to apply appropriate preventive and control measures;

(2) **except for an autism spectrum disorder**, inform the parents of children with birth problems:

(A) at the time of discharge from the hospital; or

(B) if a birth problem is diagnosed during a physician or hospital visit that occurs before the child is:

(i) except as provided in item (ii), three (3) years of age at the time of diagnosis; or

(ii) five (5) years of age at the time of diagnosis if the disorder is ~~an autism spectrum disorder or~~ a fetal alcohol spectrum disorder;

about physicians care facilities, and appropriate community resources, including local step ahead agencies and the infants and toddlers with disabilities program (IC 12-12.7-2); ~~or~~

(3) **except as provided in subsection (d), inform:**

(A) **the individual with problems at any age; or**

(B) **the individual's parent;**

**at the time of diagnosis, if the individual's disorder is an autism spectrum disorder, about physicians and appropriate state and community resources, including local step ahead**



**agencies and the infants and toddlers with disabilities program (IC 12-12.7-2); or**

~~(3)~~ **(4)** inform citizens regarding programs designed to prevent or reduce birth problems.

(b) The state department shall record in the birth problems registry:

(1) all data concerning birth problems of children that are provided from the certificate of live birth; ~~and~~

(2) any additional information that may be provided by an individual or entity described in section 7(a)(2) of this chapter concerning a birth problem that is:

(A) designated in a rule adopted by the state department; and

(B) recognized:

(i) after the child is discharged from the hospital as a newborn;

(ii) before the child is five (5) years of age if the child is diagnosed with ~~an autism spectrum disorder~~ or a fetal alcohol spectrum disorder; ~~and~~

(iii) before the child is three (3) years of age for any diagnosis not specified in ~~item~~ items (ii) ~~and~~ (iv); ~~and~~

**(iv) at any age if the individual is diagnosed with an autism spectrum disorder; and**

**(3) information reported to the state department by the office of the secretary under IC 12-12-9-3 concerning a child who is less than five (5) years of age and diagnosed with a visual impairment or blindness.**

(c) The state department shall:

(1) provide a physician and a local health department with necessary forms for reporting under this chapter; and

(2) report in an electronic format under IC 5-14-6 to the legislative council any birth problem trends that are identified through the data collected under this chapter.

**(d) Concerning an individual who is at least eight (8) years of age and diagnosed with an autism spectrum disorder, the state department is not required to do any of the following:**

**(1) Report information to the federal Centers for Disease Control and Prevention.**

**(2) Confirm the individual's diagnosis.**

**(3) Verbally inform an individual of the information set forth in subsection (a)(3).**

SECTION 21. IC 16-38-4-9, AS AMENDED BY P.L.232-2013, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 9. (a) Certified nurse midwives, certified direct





entry midwives, and individuals and entities described in section 7(a)(2) of this chapter shall report each confirmed case of a birth problem that is recognized at the time of birth to the registry not later than sixty (60) days after the birth. An individual or entity described in section 7(a)(2) of this chapter who recognizes a birth problem in:

- (1) a child after birth but before the child is five (5) years of age, if the child is diagnosed with a fetal alcohol spectrum disorder;**
- (2) an individual at any age, if the individual is diagnosed with an autism spectrum disorder; and**
- (3) a child before the child is three (3) years of age for any birth problem diagnosis not specified in subdivisions (1) and (2);**

shall report the birth problem to the registry not later than sixty (60) days after recognizing the birth problem. Information may be provided to amend or clarify an earlier reported case.

(b) A person required to report information to the registry under this section may use, when completing reports required by this chapter, information submitted to any other public or private registry or required to be filed with federal, state, or local agencies. However, the state department may require additional, definitive information.

(c) Exchange of information between state department registries is authorized. The state department may use information from another registry administered by the state department. Information used from other registries remains subject to the confidentiality restrictions on the other registries.

SECTION 22. IC 16-41-42.2-4, AS ADDED BY P.L.3-2008, SECTION 113, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 4. The fund is to be used for the following purposes:

- (1) Establishing and maintaining a state medical surveillance registry for traumatic spinal cord and brain injuries.
- (2) Fulfilling the duties of the board established by section 5 of this chapter.
- (3) Funding research related to the treatment and cure of spinal cord and brain injuries, including acute management, medical complications, rehabilitative techniques, and neuronal recovery. Research must be conducted in compliance with all state and federal laws.
- (4) Develop a statewide trauma system.**

**However, not more than fifty percent (50%) of money in the fund may be used for purposes of developing a statewide trauma system.**



**SECTION 23. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "department" refers to the state department of health.**

**(b) Before January 1, 2015, the department shall adopt rules that establish a license and provide regulations for a facility that provides specialized treatment and services for traumatic brain injuries.**

**(c) Before September 1, 2014, the department shall make to the legislative council and health finance commission recommendations concerning changes to the food handling laws. Recommendations made to the legislative council must be in an electronic format under IC 5-14-6.**

**(d) This SECTION expires January 2, 2015.**

**SECTION 24. An emergency is declared for this act.**



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Speaker of the House of Representatives

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President of the Senate

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President Pro Tempore

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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